

Surface Transportation Board, DOT

§ 1022.4

SOURCE: 77 FR 64432, Oct. 22, 2012, unless otherwise noted.

§ 1022.1 Scope and purpose.

The purpose of this part is to establish a method to adjust for inflation the civil monetary penalties provided by law within the jurisdiction of the Board. These penalties shall be subject to review and adjustment at least once every four years using the method specified in the Debt Collection Improvement Act of 1996, Public Law 104-134, 110 Stat. 1321, as it amends the Federal Civil Penalties Inflation Adjustment Act of 1990, Public Law 101-410, 104 Stat. 890 (codified as amended at 28 U.S.C. 2461 note). The inflation adjustment is calculated by increasing the maximum civil monetary penalty amount per violation by the Cost-of-Living Adjustment, which is the percentage (if any) by which the Consumer Price Index for June of the year preceding the adjustment exceeds the Consumer Price Index for June of the year the civil monetary penalty amount was last set or adjusted, multiplied by the statutory maximum amount, rounded to the nearest specified amount using the formula contained in the statute. The initial adjustment, however, is capped at 10% of the penalty, regardless of the applicable rate of inflation.

§ 1022.2 Definitions.

As used in this part:

(a) *Board* means the Surface Transportation Board.

(b) *Civil monetary penalty* means any penalty, fine, or other sanction that:

(1)(i) Is for a specific monetary amount as provided by federal law; or

(ii) Has a maximum amount provided by federal law;

(2) Is assessed or enforced by the Board pursuant to federal law; and

(3) Is assessed or enforced pursuant to an administrative proceeding or a civil action in the federal courts.

(c) *Consumer Price Index* means the Consumer Price Index for all urban consumers published by the Department of Labor.

(d) *Cost-of-Living Adjustment* means the percentage (if any) for each civil monetary penalty by which the Consumer Price Index for the month of June of the calendar year preceding the

adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

§ 1022.3 Civil monetary penalty inflation adjustment.

The Board shall, immediately, and at least once every four years thereafter—

(a) By regulation adjust each civil monetary penalty provided by law within the jurisdiction of the Board by the inflation adjustment described in § 1022.4; and

(b) Publish each such adjustment in the FEDERAL REGISTER.

§ 1022.4 Cost-of-living adjustments of civil monetary penalties.

(a) Pursuant to the Debt Collection Improvement Act of 1996, as it amends the Federal Civil Penalties Inflation Adjustment Act of 1990, the increase of a civil monetary penalty assessed under this section shall be determined by multiplying the Cost-of-Living Adjustment by the existing maximum civil monetary penalty, rounded to the nearest specified amount using the guidelines set forth in paragraph (b) of this section.

(b) Any increase determined under paragraph (a) of this section shall be rounded to the nearest:

(1) Multiple of \$10 in the case of penalties less than or equal to \$100;

(2) Multiple of \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000;

(3) Multiple of \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000;

(4) Multiple of \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000;

(5) Multiple of \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; or

(6) Multiple of \$25,000 in the case of penalties greater than \$200,000.

(c) The first adjustment of any civil monetary penalty required by § 1022.3 may not exceed 10% of such penalty.

(d) The first application of the inflation adjustment method required by